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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/595,943	06/16/00	EASTMAN	R EOD-103-A

021828  
CARRIER BLACKMAN AND ASSOCIATES  
24101 NOVI ROAD  
SUITE 100  
NOVI MI 48375

PM82/0905

EXAMINER

STEPHAN, B

ART UNIT	PAPER NUMBER
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3635

3

DATE MAILED:

09/05/01

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.

09/595,943

Applicant(s)

EASTMAN, ROBERT

Examiner

Beth A Stephan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2. 6) ☐ Other: \_\_\_\_\_

***Information Disclosure Statement***

Receipt is acknowledged of Form 1449 filed.

***Drawings***

The drawings are acceptable for examination.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-7 and 9-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Husted'346 in view of Anderson'777, Guerra'794, Hollinger'838, and Vickers'247. Husted teaches a portable enclosure comprising four pivotally connected side walls(21), a roof, a zipper(48), the side walls having a flexible material covering yet each wall being rigid when interconnected to the frame members(15-18). Husted lacks a liner being attached to the enclosure made of a scent-dampening material.

Anderson teaches a tent(10) having a liner to provide an added benefit, flame resistance, to the tent.

Guerra teaches a portable enclosure having a camouflage pattern on the exterior thereof to avoid detection by prey sought after by the user.

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Hollinger teaches the use of camouflaging(12a,12b,14a,14b,16a,16 b,18a,18b) on an article of clothing(10) to help avoid detection by prey sought after by the user..

Vickers teaches the use of scent-dampening on an article of clothing having a binder and carbon particles.

It would have been obvious for one having ordinary skill in the art at the time of the invention to have provided the enclosure of Husted with a liner, as taught by Anderson, having a "camouflaging" (i.e. scent-dampening), as taught by Guerra, Hollinger, and Vickers in order to have helped to avoid detection by prey sought after by the user.

The specific materials of the binder and carbon are considered matter of obvious design choice for a skilled artisan given the intended use of the enclosure and the environment within which it will be used.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Husted'346 in view of Anderson'777, Guerra'794, Hollinger'838, and Vickers'247 as applied to claim 1 above, and further in view of Tsai'018. Husted, Anderson, Guerra, Hollinger, and Vickers teach the portable enclosure discussed previously but lack the use of a four sided triangular shaped side-wall enclosure.

Tsai teaches a portable enclosure having four substantially triangular fabric wall panels sewn together to form a pointed dome shape with a zippered door(111,112) formed in one of the panels.

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As shown in the specification, the specific shape of the enclosure is not critical to the invention. Therefore, the specific shape chosen is deemed a matter of obvious design choice for a skilled artisan given the intended use of the enclosure and the environment within which it will be used.

Claim 16-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Husted'346 in view of Anderson'777, Guerra'794, Hollinger'838, and Vickers'247 as applied to claim 10 above, and further in view of Beavers'482. Husted, Anderson, Guerra, Hollinger, and Vickers teach the portable enclosure discussed previously but lack the enclosure having four X-shaped subframes and a U-shaped support structure.

Beavers teaches an enclosure having a roof panel made from a flexible material, the roof panel and three wall panels are supported by collapsible X-shaped subframes, a door means 66, and the panel with the door therein having a U-shaped frame(26).

Beavers lacks the U-shaped frame being three pole members. It is well known in the tent art to use pole members to maintain the shape of a tent. Therefore, to have substituted the members 26 of Beavers with pole members would have been obvious for one having ordinary skill in the art to have provided more support for the enclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Beth A Stephan whose telephone number is (703) 308-2485. The examiner can normally be reached on Tues-Fri, 7:30 - 6:00 pm.

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The fax phone numbers for the organization where this application or proceeding is assigned are (703)305-7687 for regular communications and (703) 305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-2168.

A handwritten signature in black ink, appearing to read "B. Stephan", is written over the printed name.

Beth A Stephan  
Primary Examiner  
Art Unit 3635

BAS  
September 1, 2001